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GOOGLE INC.

12 UNITED STATES DISTRICT COURT  
13 NORTHERN DISTRICT OF CALIFORNIA  
14 SAN FRANCISCO DIVISION

15 ORACLE AMERICA, INC.,  
16 Plaintiffs,  
17 v.  
18 GOOGLE INC.,  
19 Defendant.

Case No. 3:10-cv-03561 WHA

**GOOGLE INC.'S ADMINISTRATIVE  
MOTION TO SEAL PORTIONS OF  
GOOGLE INC.'S RESPONSE TO  
ORACLE'S MIL #6 REGARDING RULE  
706 EXPERT, PROFESSOR JAMES  
KEARL**

Dept. Courtroom 8, 19<sup>th</sup> Fl.  
21 Judge: Hon. William Alsup

Pursuant to Civil Local Rules 7-11 and 79-5, Defendant Google Inc. (“Google”) hereby moves to file under seal the following documents:

- Portions of Google’s Response to Oracle’s Motion in Limine #6 Regarding Rule 706 Expert, Professor James Kearl

## I. INTRODUCTION

Google requests that the Court allow Google to file the document listed above under seal. On April 8, 2016, Google filed a Response to Oracle’s Motion in Limine #6 Regarding Rule 706 Expert, Professor James Kearl (“Kearl Response”) which, by necessity, contains non-public, highly sensitive information important to Google’s business and therefore should be filed under seal. In support of its request to seal, Google has identified a narrowly-tailored list of those portions of the Kearl Response that contain highly sensitive Google financial information that is subject to sealing. *See* Declaration of Susan Kim in Support of Administrative Motion to Seal Portions of Google’s Response to Oracle’s MIL #6 Regarding Rule 706 Expert, Professor James Kearl (“Kim Decl.”).

## II. DISCUSSION

### A. The material that Google seeks to file under seal constitutes non-public, highly-sensitive, and confidential financial and trade secret information.

A compelling justification to seal pleadings exists when disclosure of “business information . . . might harm a company’s competitive standing.” *Nixon v. Warner Commc’ns, Inc.*, 435 U.S. 589, 598 (1978); *Kamakana v. City & Cnty. of Honolulu*, 447 F.3d 1172, 1179 (9th Cir. 2006); N.D. Cal. Civ. L.R. 79-5(a). Courts have therefore concluded that it is appropriate to seal documents containing sensitive financial information and similar trade secrets information. *Clark v. Bunker*, 453 F.2d 1006, 1009 (9th Cir. 1972); *Apple Inc. v. Samsung Elecs. Co. Ltd.*, 727 F.3d 1214, 1224-26 (Fed. Cir. 2013) (district court abused discretion by not sealing portions of documents containing sensitive financial information).

In this case, the non-public information that Google seeks to file under seal constitutes highly sensitive financial information. Kim Decl. ¶ 2. Public disclosure of this information could therefore “have significant negative effects on Google’s business.” *Id.* ¶ 2. Because disclosure of this “business information . . . might harm [Google’s] competitive standing,” there is a

1 compelling justification to seal information of the kind described above. *Nixon*, 435 U.S. at 598.  
2 Indeed, the Court has previously granted motions to seal these types of materials in this case.  
3 *See, e.g.*, ECF No. 1541 (granting motion to seal Google financial information); ECF. No. 1375  
4 (same).

5 For the reasons stated above, Google seeks to seal the portions of Google's Response to  
6 Oracle's Motion in Limine #6 Regarding Rule 706 Expert, Professor James Kearl listed in the  
7 Kim Declaration on the grounds that they contain Google's non-public, highly sensitive financial  
8 information. Kim Decl. ¶ 2.

### 9 **III. CONCLUSION**

10 For the foregoing reasons, Google respectfully requests that the Court issue an order  
11 granting Google's request to file the foregoing documents under seal.

12  
13 Dated: April 8, 2016

KEKER & VAN NEST LLP

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15 By: /s/ Robert A. Van Nest  
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